

Element of Swine from the Perspective of *Fiqh* Ruling and *Fatwa* in Malaysia

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ABSTRACT

Islam allows the use of medication sourced from *haram* (impure) substance, based on the *dharurah* situation. Jurist (*fuqaha*) have agreed to allow the use of such medication based on the prevailing *dharurah* where the situation is critical to preserve human life as proven by a physician. This paper focuses on the collection of the Discourse of the Fatwa Committee of Malaysian National Council for Islamic Religious Affairs regarding the use of swine between 1981 and 2012. An analysis is performed to examine whether all uses of swine are regarded as *haram* (prohibited) or there are exceptions. The study shows there are several *fatwas* that permit the use of swine based on *dharurah* method. It is obviously the easiest method to be applied in accordance with the spirit of *Shariah* which gives flexibility to its followers when facing complicated and demanding situation.

Keywords: Consumerism, *dharurah*, *fatwa*, *halal*, swine

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INTRODUCTION

Islam is a way of life governed by rules and customs based on three main branches namely *aqidah* (belief), *sharia* (Islamic law) and *akhlak* (ethics and moral belief). Therefore, Muslims need to observe all rules ordained by Allah through *shariah* including food and dietary related matters. Muslims must follow a set of dietary laws intended to advance their well-being through the regulation of *halal* and *haram*.

The advancement and development of technology has made *halal* no longer a purely religious issue. The realm of *halal* may extend to all consumables such as on food industry, medicines and pharmaceuticals, services and daily usage including finance. Non-Muslims countries are dominating the trade of processed food and generally *halal* products. Therefore, issues crop up regarding use *halal* foods and products especially use of swine in food, medicines, clothing and equipment. Hence, there is a need to understand and to know the rulings in the current context in solving the problem of *halal* and *haram* pertaining to the issue of swine (Man, 2009).

It is estimated that 70% of Muslims worldwide follow *halal* standards (Minkus-McKenna, 2007) and the worth of global *halal* market was estimated at USD12 billion in 1999 (Riaz, 1999). It increased to USD150 billion in 2001 and currently is reported to be USD580 billion (Al-Harran & Low, 2008). According to Hussaini (1993), 75% of Muslims would follow their dietary rules in the United States, meaning that even after having migrated, most Muslims still choose *halal* products. Therefore, the *halal* aspect is now accepted as a quality system worldwide that appeals to both Muslims and non-Muslims as well (Ariff, 2009). Nowadays, Muslims are making their presence felt socially and politically and are requesting *halal*-certified products (Riaz & Chaudry, 2004; Shafie & Othman, 2006).

LITERATURE REVIEW

The Concept of *Halal*

The word *halal* describes anything that is considered permissible and lawful under Islamic law while *haram* is used to describe anything that is forbidden and punishable according to religion (Al-Qaradawi, 2007; Puziah 2011). The concept of *halal* in Arabic refers to permissible behaviour, speech, dress, conduct, manner and dietary intake whereas in the Malaysia context, the term is used specifically in relation to Muslim food, especially where meat and poultry are concerned. *Halal* products are those that are Sharia compliant, i.e. do not involve the use of *haram* ingredients, exploitation of labour or environment, and are not harmful or intended for harmful use. According to the Quran, the only foods explicitly forbidden are meat from animals that die naturally, blood, the meat of swine, and animals dedicated to other than Allah (either undedicated or dedicated to idols). However, a person is not guilty of sin in a situation where the lack of any alternative that creates a necessity to consume that which is otherwise unlawful (Quran 2: 173).

The dichotomy of *halal-haram* covers almost every aspect of life including food and dietary law. According to Al-Ba'labakki (1999) in al-Mawrid, the word *haram* means "taboo, inviolable, sacred, holy, ill-gotten, sin, wrongdoing, offense" which denotes the opposite of *halal*. In addition, Islamic rulings encourage Muslims to avoid consumables that are doubtful. Such items are often referred to as *shubhah* which means doubtful or questionable. Food

falling into this category should be treated with precaution until it is ruled otherwise. In Islam, use of porcine derived products of any kind is prohibited. The jurists of the Standing Committee for Issuing Fatwas (Shaikh Abd al-Azeez ibn Baaz, Shaikh Abd al-Razzaaq Afeefi, Shaikh ‘Abd-Allaah ibn Ghadyaan, Shaikh ‘AbdAllaah ibn Qa’ood. *Fataawa al-Lajnah al-Daa’imah* (22/281)), noted that even if a Muslim is in doubt that the products to be used contain any pork, lard (pig fat), or ground up pig bones in food, medicine, toothpaste, and so on, then it is not permissible for him to eat it or drink it, or apply it to his skin. On the other hand, jurists also believe that in case of non-availability of some lifesaving medications, porcine products could be used.

Swine

Pork is the culinary name for meat of the domestic pig. It is the one of the most commonly consumed meat worldwide with evidence of pig husbandry dating back to 5000 BC. The advancement of technology has resulted in the use of swine as an important component in biomedical research as they are excellent models for curing several important diseases. Improvements in the methods to make genetic modifications have enabled scientists to utilise pigs that are beneficial to humans in ways that were previously unimaginable. The benefits to medicine include pharmaceuticals, the provision of organs for xenotransplantation into humans, and the development of models of human diseases. Randall, Miaoda and Yifan (2008) show that the modifications

of genes can change the swine so that it is a better model of human disease, that it produces pharmaceuticals, or that the health of the animal or consumer is improved.

The religions of Judaism and Islam, as well as several Christian sects, forbid pork consumption; the sale of pork is illegal in many if not most Muslim countries, and is severely restricted in Israel (the only country with a Jewish majority). In Arabic, swine is called khinzir. Meanwhile, in English, there are many terms used to define swine based on their parts, nature or certain functions (Rumaizi, 2009).

Table 1
Terms used to define swine based on the parts, nature or certain functions

Term	Meaning
Swine	General definition for a pig or a young pig of less than 50 kg.
Swine	The term for entire species of pig
Boar	The term for wild pig
Hog	The term for a fully-grown pig which weighs more than 50kg
Sow	The term for a fully grown female pig which is rarely used
Pork	The meat of a pig that is used for food.
Porcine	The term for something related to or derived from pork. The term is often used in the medical field to specify the use of resources derived from pigs.
Lard	A soft white substance that is made from the fat of pigs and used in cooking oil and soap.
Bacon	Thin strips of salted and smoked meat from the sides and the back of a pig
Ham	Meat from the leg of a hog that is often prepared by smoking or salting
Bristle	A short stiff coarse hair or filament

Source: (Al-Bakri, 2014; Rahman, 2010; https://en.wikipedia.org/wiki/Domestic_pig)

For the purpose of branding and marketing strategies, the manufacturer normally use the following in their products: “This product contains substance from Porcine” or “The source of the gelatine capsule is Porcine” or “Serve no pork”. Normally, these terms are used in the label of a product (Rahman, 2010).

Quranic Rulings on Pork and Swine

The prohibition of the pork was mentioned in the Holy Quran and it is based on four verses in the Quran which directly refers to the ruling of prohibition of pork, which are:

“He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful”

(Quran 2: 173)

“Prohibited to you are dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah, and [those animals] killed by strangling or by a violent blow or by a head-long fall or by the goring of horns, and those from which a wild animal has eaten, except what you [are able to] slaughter [before its death], and those which are sacrificed on stone altars, and [prohibited is] that

you seek decision through divining arrows...”

(Quran 5: 3)

“Say, I do not find within that which was revealed to me [anything] forbidden to one who would eat it unless it be a dead animal or blood spilled out or the flesh of swine - for indeed, it is impure - or it be [that slaughtered in] disobedience, dedicated to other than Allah. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], then indeed, your Lord is Forgiving and Merciful”

(Quran 6: 145)

Based on the above verses of the Quran, the jurists have the following rulings on pork and *najis* (impure) of swine.

Ruling on pork. Pertaining to the prohibition of pork, majority of the jurist think that all there is within a swine or of its descendant is *haram* or prohibited and that include pork, bones, lard, milk etc. (Al-Bakri, 2014). Al-Qurtubi explains that Allah SWT specifically mentions pork in the verses of Quran above to show the prohibition of entire swine, either slaughtered or not. It does not involve only lard, but also other parts (Al-Sabuni, 1987). Ibn Kathir stresses that Allah prohibits pork, either slaughtered or which has died on its own. Lard is usually included in rulings related to pork, or pork containing lard or through analogy.

The word pork covers all parts of swine, as understood by the Arabic language and according to custom (Alu Shaikh, 2008). However, there is an odd view of Zahirī school which stated that only pork is *haram* and not the entire parts of swine. This school reasoned that the verses of the Quran only focused on the *haram* part, namely pork. This suggests that fur, fat, skin and others from swine is *halal* to be used (Hammad, 2004).

Ruling of impurity of swine. The ruling regarding the impurity of swine is only found in one verse which is from al-An'am: 145 that explains swine are impure (*rijsun*). According to Al-Zuhayli (2002), jurist agreed on the impurity of pork even though the swine is slaughtered in the manner prescribed by Islam, as well as their hair, bones and skin even if the swine skin is being tanned (*samak*). *Samak* is the process of tanning or cleaning in the manner prescribed by Islam. However, according to Daud al-Zahiri and Abu Yusuf, the *samak* (tanned) swine skin is pure based on the generality of hadith of the Prophet SAW, "Any skin that is *samak* is pure" (Narrated by Tirmizi and Muslim). The use of the principle of *dharurah* and *istihalah* is a method and a way out by most jurists in response to this issue. The use of principle of *dharurah* is prevalent particularly among the jurists and *usuliyyun* (fundamentalists). It is reasoned as the best method with regard to this issue and only be considered after other methods and principles are deemed to be unsuitable. Normally, the jurists will use

this principle as a last resort when dealing with such situations of difficulty.

Application of *Dharurah* in Non-Halal Sourced Products

The use of *dharurah* and *istihalah* principles allow scholars to solve *halal* issues. Normally scholars will use this principle as the last resort in demanding situations. *Dharurah* concept is usually discussed by scholars based on the theory of Maqasid al-Shariah and also qawaid fihiyyah. According to Maqasid al-Shariah, the purpose of all human beings is to be mukallaf (accountable) to *shariah* law for the good and benefit and prevent harm to human life (jalb al-masalih wa dar' al-mafasid). The advantages and benefits known as masalih (plural *maslahah*) are categorised as *dharuriyyah*, hajiyyah and tahsiniyyah. The concept of *dharuriyyah* (essential) is usually discussed by the jurist in relation to the theory of Maqasid al-Shariah (objectives of *shariah*) along with the concept of hajiyyah (complementary) and tahsiniyyah (embellishment). The principle of *dharuriyyah* is a fundamental element of human life that ensures the stability of man's life. The principle of *hajiyyah* emphasises on the need for flexibility in certain aspects of life. The principle of *tahsiniyyah* is an element of complementary quality of human life and its absence is essentially not to ruin man's lives.

There are five things under the principle of *dharuriyyah* that need to be preserved and maintained in human life, namely: i) preservation of religion (hifz al-din); ii)

preservation of lives (hifz al-nafs); iii) preservation of intellect (hifz al-aql); iv) maintaining the descendants (hifz al-nasal); and v) safeguarding assets (hifz al-mal). Each of these is guaranteed its preservation in Islam through the *shariah* either from the aspect of creation (ijad wa tahqiq) or prevent it from loss (muhafazah li-ibqa'). Thus, in the context of discussions on the issue of drug sourced from non-*halal* ingredient, the permission is given based on principle of preservation of life. Islam allows consumption of non-*halal* ingredients in order to save lives based on the Quran:

“He hath only forbidden you dead meat, and blood, and the flesh of swine, and that on which any other name hath been invoked besides that of Allah. But if one is forced by necessity, without wilful disobedience, nor transgressing due limits, - then is he guiltless. For Allah is Oft-forgiving Most Merciful”

(Quran 2: 173)

“But if any is forced by hunger, with no inclination to transgression, Allah is indeed Oft-forgiving, Most Merciful”

(Quran 5: 3)

“Say: “I find not in the message received by me by inspiration any (meat) forbidden to be eaten by one who wishes to eat it, unless it be dead meat, or blood poured

forth, or the flesh of swine, - for it is an abomination - or, what is impious, (meat) on which a name has been invoked, other than Allah's”. But (even so), if a person is forced by necessity, without wilful disobedience, nor transgressing due limits, - thy Lord is Oft-forgiving, Most Merciful”

(Quran 6: 145)

In the event of absence of *halal* food, it is compulsory to consume non-*halal* food to survive and is regarded as sinful if neglected. According to Sheikh 'Abd Allah al-Munajjid, if someone dies as a result of avoiding non-*halal* food during *dharurah* (emergency), he will be put in hell. Thus, taking non-*halal* sourced medication in the absence of *halal* drug is similar to this situation as it is part of preservation of life. According to *tartib al-maqasid* (level of priority of *maqasid*), *dharuriyah*-related matter should be given priority than other *maslahah* (*hajjiyah* and *tahsiniyyah*), such as drinking alcohol, which is allowed in urgent situations (if one is threatened with murder) because lives must be preserved. The application of *maslahah dharuriyyah* need to be observed by those with expertise such as the physician and jurist due to the element of *maslahah*, seen as *qat'iyah* (definite) whose authenticity must be confirmed by an expert (*ra'y al-khabir*) (Al-Zuhayli, 2002).

With reference to The *Majelle* or known as *Al Majallah Al-Ahkam Al-'Adaliyyah*, the Ottoman codification of Islamic law, there

are several maxims of Qawaid al-Fiqhiyyah applicable in ensuring the preservation of life, which can be summarised as follows:

- (1) Ad-dararu yuzal/ Damage is put an end to (Art 20 of The Majelle). This maxim applies to harmful diseases which need to be eliminated (Abdul Karim, 1987).
- (2) Ad-darurah tubih al-mahzurat/ Necessity renders prohibited things permissible (Art 21 of The Majelle). This maxim is particularly relevant and closely related to preservation of life. The absence of *halal* medicine for critical illnesses is a form of *dharurah* and requires treatment using *haram* based medication for preserving life.
- (3) Yuzal ad-darar al-ashaddu bid-darar al-akhaff/ A greater harm is eliminated by means of a lesser harm (Art 27 of The Majelle). This maxim is applicable when there are two types of *haram* based medication are available, where one is lighter compared with the other.
- (4) Ad-darurah tuqaddaru bi-qadari-ha/ Dharar is measured in accordance with its true proportion (Art 22 of The Majelle). This maxim is relevant from the point of consumption of illegal drugs where it is required to save life as prescribed by physicians. Any consumption more than the permissible limits is illegal and sinful.
- (5) Al-Mashaqqah tajlib al-taysir/ Hardship begets facility (Art 17 of The Majelle). This maxim is applied in the absence of *halal* medicine which reflects difficulties (*mashaqqah*) in the lives of Muslims. Difficulties begets flexibilities and hence, flexibility should be given to patients suffering from pain and difficulties to obtain the *halal* medication.
- (6) Iza daqa al-amr ittasa'a/ Latitude should be afforded in the case of difficulty (Art 18 of The Majelle). Difficulties within this context can be interpreted with limitation of available *halal* medication, thus, requiring a shift from *halal* to the use of *haram* sourced medication.
- (7) La yajuzu irtikab ma yashuququ 'alan nafs/ Can't do anything incriminating to oneself. This maxim is applied since no one is allowed to distress or cause difficulties to him/herself by restrain from using *haram* based medication. Thus, the permission to use *haram* based medication is a way out to refrain themselves from trouble and pain.

An analysis on principle of Maqasid al-Shariah and qawaid al-fiqhiyyah clearly shows the use of *haram* based medication and drug is not prohibited in Islam as it is based on the principle of *dharurah* as long as there is no other alternative. Treatment that is seen as not reaching the level of

dharurah such as Botox injections for beauty purposes, sourced from swine, are prohibited since it is at the level of tahsiniyyah, especially when it is done with the intention of *riya'* (ostentation) and bad intention.

Application of *Istihalah* in Non-Halal Sourced Products

Istihalah is defined by the *fuqaha* as a process of change or transformation of a material to another with different nature, substance and name (Abu Jayyib, 1988; Mohammad Aizat, 2011; Nazih 2004; Qal'ahji, 1996). There are two views on this. The first is a strict view of Shafie and Hanbali schools who restrict the *istihalah* application on some cases, namely wine turns into vinegar, blood of deer turns into the blood of musk deer, tanned animal skin and animals that exist from the faeces of animals (such as worms). The second view of majority of jurist allow *istihalah* to be applied in any circumstances and not limited to certain cases. In modern application, most scholars allow the application of *istihalah* in producing medication sourced from non-halal substance. This can be seen from some of the rulings and opinions issued concerning insulin, gelatine and other drugs sourced from pork elements. Their views are based on the evidence from scientists and medical experts stating that the material derived from swine that have been extracted and processed through the various stages of processing up to its chemical structure has changed completely.

Al-Qaradawi, in his book *Fiqh al-Taharah*, explains and authenticates view of majority of jurists on this issue in allowing application of *istihalah* in any circumstances. The basis of his view is that when something has changed, either natural or man-made processes or chemical changes (*taghayyur kima'i*) to produce other substances with different name and attributes, the law is changed by its nature. According to this view, the application of *istihalah* conforms to the principles of *shariah* that emphasises lightness and flexibility in the daily lives of Muslims. However, the main condition emphasised by most jurists is that the transformation in *istihalah* occurs as a whole and not in part. If *istihalah* happens in part and leaving the original substances intact, the item is deemed to be impure and that *istihalah* is not considered valid.

The application of *istihalah* in Malaysia is not widely accepted, for example, the meningitis vaccines were rejected by Fatwa Committee of Malaysian National Council for Islamic Religious Affairs which adopted Shafie view on *istihalah* which does not permit its application on medicine. Although the Fatwa Committee of Malaysian National Council for Islamic Religious Affairs does not bound with any mazhab in determining the *fatwa*, the view of Shafie school is preferred. Furthermore, there are other methods to resolve this problem, namely the use of the principle of *dharurah* which is agreed upon by all jurists, in contrast to the application of *istihalah*. Hence, it does not pose any problem as long as the principle of *dharurah* can be used.

ANALYSIS AND FINDING

There are few *fatwas* relating to use of swine products that have become guidance for Muslims in Malaysia in line with issues and problems that arise from time to time. Below is an analysis of *fatwas* relating to swine by the Discourse of the Fatwa Committee of Malaysian National Council for Islamic Religious Affairs or Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia (the Discourse). There were nine *fatwas* issued on this between 1981 and 2012.

Ruling on the Use of Animal Bone Ashes (Bone China) in the Production of Household Goods and Ornament

The 99th Discourse convened on 4-6 May 2012 decided that according to Shafie school, the original substance of *najis* in swine remains intact in bone china products and this substance will never disappear, as the process of *istihalah* (transformation) never occurred. The Discourse viewed that it is not a necessity (*dharurah*) for the society to use and own household goods and ornaments made from bone china. Therefore, the Discourse decided the use of household goods and ornaments made from

Table 2

Discourse of the Fatwa Committee of Malaysian National Council for Islamic Religious Affairs on swine byproducts

No.	Title of <i>Fatwa</i>	Discourse	Ruling	Decision Date
1	Ruling on the Use of Animal Bone Ashes (Bone China) in the Production of Household Goods and Ornaments	99 th Discourse	<i>Haram</i> (Prohibited)	4-6 May 2012
2	Contamination of Pork DNA in <i>Halal</i> -Certified Food Product	96 th Discourse	Permissible	13-15 October 2011
3	The Ruling on Usage of BioThrax and RotaTeq vaccines which Use Elements of Swine	81 st Discourse	<i>Haram</i> (Prohibited)	31 March 2008
4	Biotechnology in Food and Beverages	Special Discourse	<i>Haram</i> (Prohibited)	12 July 1999
5	The Use of PSH-P Hormone (Swine Brain) as Culture Improvement Material	39 th Discourse	<i>Haram</i> (Prohibited)	21 September 1995
6	The Use of Swine Bristle	12 th Discourse	<i>Haram</i> (Prohibited)	22-23 January 1985
7	The Injection of Highly Purified Insulin from Swine	6 th Discourse	Permissible	10 October 1983
8	Fertiliser from Swine Manure	2 nd Discourse	Permissible but <i>Makrooh</i> (Disliked)	12-13 May 1981
9	Gas from Swine Manure	2 nd Discourse	<i>Haram</i> (Prohibited)	12-13 May 1981

Source: Keputusan Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia (2009)

non-*halal* animal bone ashes (bone china) including those made from *halal* and edible animals which have not been slaughtered according to *shariah* principles, are not permissible. However, household goods and ornaments made from animal bone ashes (bone china) that are *halal* and edible, and have been slaughtered according to *shariah* principles are permissible. *Fatwa* reviews:

- (1) The bone china products are increasingly used by the Muslim consumers in Malaysia for household goods and ornaments. The products are categorised as pottery products which are of high quality and are commonly used as jewellery.
- (2) Most of the consumers assume that the animal bone ashes whether it they are of *halal* origins or otherwise, have undergone the process of *istihalah* (transformation of unclean substances to other material). This final material that have go through both processes are regarded to have undergone *istihalah* process according to the Hanafi and Maliki schools due to transformation in name, original materials and physical substances to the new materials (bone ashes powder containing oxide and calcium phosphate).
- (3) *Istihalah* process could be applied in the production of bone china according to the Hanafi and Maliki jurists as well as others, thus it makes this product *halal* and can be used by consumers. Both schools are of the view that any non-*halal* substance that has changed its nature and character are no longer *haram* as it has transformed to new materials with different names, nature and characters.
- (4) According to Shafie and Hanbali schools, the swine element entrenched in bone china products will not be vanished. They opine the *istihalah* process does not fully transform the *haram* substance as it will remain intact. If the use of *istihalah* is allowed, it is feared it will lead to use of other *haram*-sourced products.
- (5) Use of bone china products are not a necessity (*dharurah*) as only the rich can afford it. Furthermore, bone china products do not attain the level of *dharurah* for the consumers to own and use them. In fact, Malaysian Muslims are customarily sensitive to swine-based products in daily use. According to the experts, elements of swine remain intact and not destroyed through a combustion process since quality bone china product depends on the use of animal bones. If the bone ashes are replaced with trees ashes, the result is a lower quality product.

Contamination of Pork Deoxyribonucleic Acid (DNA) in *Halal*-Certified Food Product

The 96th Discourse convened on 4-6 May 2012 based its views on scientific review of contamination of Pork Deoxyribonucleic Acid (DNA) in *Halal* certified food product in providing a *shariah*-based solution:

- (1) After a brief explanation from Dr. Yaakob Che Man and Dzulkifly Mat Hashim of Universiti Putra Malaysia, it was revealed there was lack of research to identify whether the contaminated Pork DNA are in natural or synthetic form and to what extent the contamination occurs.
- (2) However, in general, the DNA contamination can occur easily through the air unwittingly or unknowingly and scientists believe it is very difficult to prevent such contamination from occurring.
- (3) For processing material and equipment that has been through the process of tanning as prescribed by *shariah* with monitoring / supervision by religious authorities, but later found to contain Pork DNA, the Discourse decided that the former tanning process is sufficient and does not need to be repeated.
- (4) This decision is based on *shariah* principle that individual responsibility does not exceed his capacity as Allah mentioned in the

Quran, “Allah intends for you ease and does not want hardship for you,” (al-Quran 2: 185).

The Ruling on Using Biothrax Vaccine and RotaTeq Vaccine that Used Swine Sources in its Production Process

The 81st Discourse held on 31st March 2006 has decided that the usage of Biothrax vaccine and RotaTeq are not permitted because there is no urgent need at the moment and there are alternative substances or medicines to using swine sources in the production of the said vaccines. There is also no concrete proof that people in the country are in dire need of such vaccine. According to the *Fatwa* reviews:

- (1) Anthrax is an acute infectious disease and can cause sudden death with blood oozing out of all the open cavities. Anthrax infection can occur either on the skin (cutaneous anthrax), intestinal tract (gastrointestinal anthrax) or through breathing (inhalation anthrax). BioThrax vaccine is used as immunisation or vaccination to help protect against anthrax infection. RotaTeq is the vaccine used for the prevention of rotavirus cases that cause vomiting and diarrhoea among young children.
- (2) Islam allows treatment with banned objects in cases of emergency and if there is no alternative medicine. Majority of jurists of the Hanafi and Maliki as well as Shafie and Hanbali schools believe alcohol is

impregnated with *najis* and thus, illegal. In this context, al-Zuhayli views that as seeking illicit or illegal unclean thing.

- (3) The use Biothrax and RotaTeg vaccine is not required since Muslims in Malaysia is not in a state of *dharurah* since there is *halal* vaccine available. So far, Muslims in Malaysia have the option to use *halal* certified vaccines.

Food and Drink Biotechnology

The Special Discourse held on 12th July 1999 discussed biotechnology used in manufacturing food and drinks. It was decided that products, food and drink processed through swine DNA biotechnology is contradictory to Islamic law and it is forbidden. Using swine DNA bio-technology in products, food and drink manufacturing are not considered al-darurah (necessity) as there are still other alternatives available. This ijtihad (diligence) is based on the maxim “The repelling of evil is preferred to the acquisition of benefits (Art 30 of The Majlle) or “dar-ul mafasid muqaddam ‘ala jalaba al-masalih”. *Fatwa* reviews:

- (1) DNA is a chain Deoxy acid-ribonucleotide, which is what is called a nucleotide - A, G, C and D. A is Adenine, G is guanine, C is cytosine and T is thymine. The combination of the four A, G, C and T is used as a DNA chain. Chain or genetic information is copied and then translated into proteins.

- (2) According to the method of Usul al-Fiqh (Islamic jurisprudence) “Origin is a matter that must be lawful and an unlawful origin is *haram*. When mixed with something that is *haram halal* whether many or few, it is *haram*”.

- (3) In the process of DNA biotechnology, as long as the ingredients are pork protein in the host or home or cell overlaps into the seed either to humans, animals or plants for the purpose of reproduction and fertility, then he should not be punished because of dietary ingredient is pork stool weight.

The use of Art 30 of The Majelle is a good fit in the cell or gene transfer issues of swine through biotechnological processes.

The Use of the PSH-P Hormone (Made from Swine Brain) as Livestock Breeding Stimulant

The 39th Discourse held on 21st September 1995 discussed the Use of the PSH-P Hormone (Made from Swine Brain) as a Livestock Breeding Stimulant. The Conference of the Fatwa Committee decided that the PSH-P Hormone (made from swine brain), a breeding stimulant processed from the swine’s brain, is deemed as a severe impurity (*najs al-mughallazah*) and *haram* to be used in any form whether for breeding purposes or others. This ruling is due to its *Shubhah* status. Offspring of livestock produced through the use of the

PSH-P Hormone (made from swine brain) is *haram* including its meat and milk. The Department of Veterinary Services must stop injecting the PSH-P Hormone onto lawful (*halal*) livestock for purposes of breeding and others. According to the *Fatwa* reviews:

- (1) Hormonal methods of using PSH-P (Swine Brain) is intended for breeding research by western scientists since the 1930s and poultry farmers have begun using this formula again with success.
- (2) PSH-D hormone is extracted from the pituitary gland organ in the brain of swine in which the hormone produced PSH. By using a specific process, this hormone is inserted into the cow's body for more "quike" allowed through her womb.
- (3) These hormones are not only available from swine, it can also be obtained from other animals as dietary ingredients such as hormone replacement rabbits and so on. If plants are fertilised with swine manure, it does not contribute to the fruiting but is continuously processed through the roots. While hormone of swine when injected into blood, it will hold on to the foetus and this is definitely a difference.
- (4) According to the Shafi'i and Hanbali sects, buying and selling swine, carcasses, blood, alcohol and

the likes which are unclean thing is not acceptable as per the Hadith of the Prophet: "Allah S.W.T and His Messenger banned the sale and purchase of wine, carcass, swine and idols". PSH-D hormone derived from swine brain is odious and illegitimate *mughallazah* used in any form.

The Use of Swine Bristle

The 12th Discourse held on 22nd-23rd January 1985 discussed the use of swine hair. The Discourse decided that the use of brushes made from swine hair is *haram*. In a situation where, one is unsure as to whether a brush is made of swine hair or not, its use is permitted. The *fatwa* clearly forbids the use of tools made from members of the body excretes as the consensus of the jurist of the law on defilement pork slaughtered according to Islamic way is still considered unclean, as well as feathers, bones and even his skin has been tainted.

Injection of Highly Purified Insulin Derived from Swine

The 6th Discourse held on 10th October 1983 discussed injection of highly purified insulin derived from swine. The Discourse has decided that injecting highly purified insulin derived from *najs al-mughallazah* (swine) as medication for diabetics is permissible on the basis of emergency. The ruling is applicable to the person who administers the injection.

Manure Made of Swine's Excrement

The 2nd Discourse held on 12th-13th May 1981 discussed the use of Manure Made of Swine's Excrement. It has been decided that based on the evidence from the above-mentioned book, the Discourse decided that manure made of swine's excrement is *najs al-mughallazah* and its ruling on using it as a fertiliser is permitted but *makrooh* (undesirable). Chicken feed made from processed ingredients mixed with impurities such as cow's blood, swine's blood and others are permitted or *halal*.

Gas from Swine's Excrement

The 2nd Discourse held on 12th-13th May 1981 discussed the use of Gas Made from Swine's Excrement. The Discourse has decided that the gas processed from swine's excrement using fire is impure (*najs*) and is pure if not processed using fire.

CONCLUSION

In conclusion, it is certain the swine is harm regardless whether it involves the meat, lard, skin and others. This view is supported by jurist from schools of thought, contemporary jurists as well as the jurist and experts in Malaysia. Based on the analysis done on the eight *fatwas* regarding the issues of swine, it seems that not all *fatwas* prohibition. There are five *fatwas* which consider pork prohibited and another three regard it *harus* or permissible. In the *fatwa* relating to injection of highly purified insulin derived from swine, it is permissible due to *dharurah*. This flexibility happens

in the desperate situation which uses the concept of *dharurah*. Besides, *fatwa* on the use of manure from swine excrement is also decided as permissible due to *istihalah*. Thus, the findings of the *fatwa* analysis regarding the swine issued by the Discourse from the year 1981-2012 have helped to resolve the problems within the Muslim community in Malaysia.

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